

MILENE MANSOURI, ESQ., PC
125-10 QUEENS BLVD
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KEW GARDENS, NEW YORK 11415
TEL: (718) 793- 2426

August 16, 2021

Hon. Magistrate Judge James R. Cho
United States District Court
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Government Employees Insurance Company, et al. v. Reliable CPM Surgical Supplies, Inc.
David Capiola, Md
Case docket 1:20 – CV – 05475

Dear Hon. Magistrate Cho:

I am defense counsel on the matter of Yanitzi Salem v. Hardy Singh, Supreme Court of Queens County index number 701859/2018 which involves Dr. David Capiola, a defendant in the above matter pending before the Hon. Court. Dr. Capiola was the orthopedic surgeon who operated on plaintiff in the matter of Salem v. Singh, supra, and thus, his credibility and the factual allegations against him in the summons and complaint of the Geico matter pending before the Hon. Court including but not limited to fraud, submitting fraudulent bills, fraudulent treatment, racketeering and unlawful financial arrangements are extremely crucial and vital in the defense and trial of my client. While there are many allegations in the complaint pending before the Hon. Court, pursuant to paragraph 184 – 185 of the complaint, Dr. Capiola and Dr. Sharma as part of New York Sports and Joints, either directly or with the assistance of third-party individuals agreed to participate in a predetermined fraudulent protocol as a result of an unlawful financial arrangement with the Supplier Defendants where Capiola and Sharma provided the insureds with prescriptions for fraudulent equipment and more specifically where many of the insureds were involved in minor “fender bender” motor vehicle accidents who underwent minimally invasive arthroscopic surgery on his shoulder, knee, ankle or elbow, which is directly on point with the case that I am defending.

I have reviewed a copy of the court docket including the summons and complaint, an answer by Dr. Capiola and a notice of appearance by an attorney on his behalf. However, there is no other material or discovery in the court docket. I am also aware that the Hon. Court has a hearing scheduled on this matter on October 4, 2021. I have served 2 subpoenas on plaintiff’s counsel, Michael Vanunu, Esq. in order to obtain a copy of the nonprivileged portion of his legal file, copies of any transcripts including plaintiff and defendants’ transcripts, any discovery, any settlement agreements etc. which has been rejected by him on 2 separate occasions stating that he will not comply with the subpoena. While I have tried desperately to resolve this issue amicably, Mr.

Vanunu has not complied to my subpoenas and is claiming that the information I am seeking is privileged when I specifically requested the nonprivileged portion of his file as discussed above.

As such, I am respectfully requesting a telephone conference as soon as possible with the Hon. Court in order to address the above subpoena and the discovery sought by me.

I am fully aware of the Hon. Court's busy schedule and I am grateful for the Court's courtesy and cooperation in this matter.

Respectfully,

/s Milene Mansouri

Milene Mansouri

MM/gl

EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X

YANITZI SALEM,

PLAINTIFF(S)

-against-

HARDAYAL SINGH,

DEFENDANT (S)

-----X

THE PEOPLE OF STATE OF NEW YORK

INDEX NO: 701859/2018

SUBPOENA DUCES

TECUM

OUR FILE #: 1004770

TO: MICHAEL VANUNU, ESQ.
RIVKIN RADLER
926 RXR PLAZA, WEST TOWER
UNIONDALE, NY 11556

YOU ARE HEREBY COMMANDED, that all business and excuses being laid aside, pursuant to CPLR §3120, you appear on August 18, 2021, at law office of Milene Mansouri, Esq, PC located at 125 – 10 Queens Boulevard, Suite 311, Kew Gardens, New York 11415 the following information:

SEE EXHIBIT A ANNEXED HERETO

This Subpoena is served pursuant to CPLR §2302 and directly seeks information material and relevant to the lawsuit that was brought on behalf of your client, Geico Insurance Company v. Reliable CPM Surgical Supply Inc., David Capiola, Md, Laxmidhar Diwan, MD, case 1:20 cv 5475 in the United States District Court/Eastern District of New York,

now in your custody. In lieu of a personal appearance, the requirements of this subpoena may be met by delivery of the material by mail or overnight delivery service, provided that it is received on or before the return date set forth herein. Failure to comply with this subpoena is punishable as a contempt of court and shall make you liable to the person on whose behalf this

subpoena is issued for a penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply pursuant to CPLR §2308..

Dated: Kew Gardens, NY

August 16, 2021

Yours, etc.,

/s/ Milene Mansouri,

Milene Mansouri, Esq. PC

Attorney for Defendant(s)

125-10 Queens Blvd, Suite 311

Kew Gardens, New York 11415

Tel: (718) 793-2426

EXHIBIT A

With respect to Geico v. Reliable CPM Surgical Supplies, David Capiola, MD, Laxmidhar Diwan, MD et al, case ID number 1- CV 5475 please provide the undersigned attorney with a copy of all of the following:

1. Nonprivileged portion of Your legal file
2. Depositions of plaintiff and all parties
3. any and all agreements among the parties including settlement, terms of settlements, payments or concessions made on behalf of any of the above defendants
4. any and all court orders regarding settlement of the parties
5. a copy of the release and closing documents

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF QUEENS

-----X
YANITZI SALEM

INDEX NO: 701859/2018

PLAINTIFF(S)
-against-

SUBPOENA DUCES
TECUM

OUR FILE #: 1004770

HARDAYAL SINGH,
DEFENDANT (S)
-----X

Yours, etc.,

/s/ Milene Mansouri

Milene Mansouri, Esq. PC
Attorney for Defendant(s)
125-10 Queens Blvd, Suite 311
Kew Gardens, New York 11415
Tel: (718) 793-2426